

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 622

Introduced by Assembly Member Negrete McLeod

February 17, 2005

An act to amend ~~Section 49431 of, and to repeal Section 49431.5 of, Sections 49430, 49430.5, and 49431 of the Education Code,~~ relating to pupil nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 622, as amended, Negrete McLeod. Public schools: pupil nutrition.

~~Existing~~

(1) Existing law, operative if funding is appropriated for specified nutritional purposes, prohibits the sale of certain beverages at elementary schools regardless of the time of day and restricts the sale of certain food items on those campuses during specified times. Existing law further prohibits the sale of carbonated beverages in middle schools from ½ hour before the start of the schoolday until after the end of the last lunch period. Existing law also prohibits the sale of certain beverages to pupils in elementary, middle, or junior high schools, and at specified school events.

This bill would delete these provisions and would, instead, provide that food or beverages sold or served to pupils meet other specified nutritional standards. *The bill would require elementary schools to comply with these standards commencing July 1, 2007, middle schools commencing July 1, 2008, and high schools commencing January 1, 2009.*

(2) Existing law requires a school district to approve, for compliance with nutritional standards contained in existing law, the

sale of foods on school grounds at each elementary school and schools participating in a specified pilot program.

This bill would create a state-mandated local program by requiring school districts to take this action with regard to the sale of foods on school grounds at middle and high schools.

(3) Existing law, operative only if moneys are appropriated for this purpose on or before January 1, 2004, requires the reimbursement that a school receives for free and reduced price meals sold or served to pupils in elementary or middle schools be increased to 23¢.

This bill would provide that these provisions are operative July 1, 2007, only if moneys are appropriated for this purpose. The bill would also provide for this increase for pupils in high school. The bill would implement this increase for elementary schools as of July 1, 2007, for middle schools as of July 1, 2008, and for high schools as of July 1, 2009.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 49431 of the Education Code is~~
- 2 ~~amended to read:~~
- 3 *SECTION 1. Section 49430 of the Education Code is*
- 4 *amended to read:*
- 5 49430. As used in this article, the following terms have the
- 6 following meanings:
- 7 (a) "Elementary school" means a public school that maintains
- 8 any grade from kindergarten to grade 6, inclusive, but no grade
- 9 higher than grade 6.
- 10 (b) "Middle school" means any public school that maintains
- 11 grade 7 or 8, but no grade higher than grade 9.

1 (c) "High school" means any public school maintaining any of
2 grades 10 to 12, inclusive.

3 (d) "Full meal" means any combination of food items that
4 meet a USDA-approved meal pattern.

5 (e) "Added sweetener" means an additive other than 100
6 percent fruit juice that enhances the sweetness of a beverage.

7 (f) "Nutritive sweetener" means an additive other than 100
8 percent fruit juice or fruit juice that contains caloric value.

9 SEC. 2. Section 49430.5 of the Education Code is amended to
10 read:

11 49430.5. (a) The reimbursement a school receives for free
12 and reduced price meals sold or served to pupils ~~in elementary or~~
13 ~~middle schools~~ shall be increased to twenty-three cents (\$0.23) in
14 accordance with all of the following:

15 (1) For elementary schools, the increase shall occur
16 commencing July 1, 2007.

17 (2) For middle schools, the increase shall occur commencing
18 July 1, 2008.

19 (3) For high schools, the increase shall occur commencing
20 July 1, 2009.

21 (b) ~~Each elementary and middle school~~ shall receive a
22 reimbursement of ten cents (\$0.10) for meals sold at full price.

23 (c) To qualify for the increased reimbursement for free and
24 reduced price meals and for the reimbursement for meals sold at
25 full price, a school shall follow the United States Department of
26 Agriculture's Enhanced Food Based Meal Pattern, the United
27 States Department of Agriculture's Nutrient Standard Meal
28 Planning, California's SHAPE Menu Patterns, or the USDA
29 Traditional Meal Pattern.

30 (d) The reimbursement rates set forth in this section shall be
31 adjusted annually for increases in cost of living in the same
32 manner set forth in Section 42238.1.

33 (e) This section shall become operative on January 1, ~~2004,~~
34 ~~2007~~, only if moneys are appropriated on or before January 1,
35 ~~2004, 2007~~, for the purposes of increased reimbursements
36 pursuant to this article.

37 SEC. 3. Section 49431 of the Education Code is amended to
38 read:

39 49431. (a) ~~At each elementary school, and in those schools~~
40 ~~participating in the pilot program created pursuant to Section~~

~~49433.7, the sale of all foods on school grounds~~
(1) Commencing July 1, 2007, food and beverages sold or served to pupils on school grounds at an elementary school shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

~~(b) (1) At each elementary school, the only food that may be sold to a pupil during breakfast and lunch periods is food that is sold as a full meal. This paragraph does not prohibit the sale of fruit, nonfried vegetables, legumes, beverages, dairy products, or grain products as individual food items if they meet the requirements set forth in this subdivision.~~

~~(2) An individual food item sold to a pupil during morning or afternoon breaks at an elementary school shall meet all of the following standards:~~

~~(A) Not more than 35 percent of its total calories shall be from fat. This subparagraph does not apply to the sale of nuts or seeds.~~

~~(B) Not more than 10 percent of its total calories shall be from saturated fat.~~

~~(C) Not more than 35 percent of its total weight shall be composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.~~

(2) Commencing July 1, 2008, food and beverages sold or served to pupils on school grounds at a middle school shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(3) Commencing July 1, 2009, food and beverages sold or served to pupils on school grounds at a high school shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) Commencing July 1, 2007, food sold or served to pupils at an elementary school, except food sold or served as part of a federal meal program, shall meet all of the following standards:

(1) The portion size of the food item shall not exceed the serving size of similar food items served in the National School Lunch Program or School Breakfast Program at that schoolsite.

(2) A snack food item may be sold or served if that item meets at least one of the following:

1 (A) The item contains 150 calories or less per serving.

2 (B) No more than 35 percent of its calories are derived from
3 total fat, no more than 10 percent of its total calories are derived
4 from saturated fat, and no more than 35 percent of its total
5 weight is composed of sugar. This subparagraph does not apply
6 to the sale of nuts, nut butters, seeds, eggs, cheese, fruits, or
7 vegetables.

8 (3) Food of minimal nutritional value as defined in Section
9 220.2 of Title 7 of the Code of Federal Regulations shall not be
10 sold or served to pupils during the regularly scheduled
11 schoolday.

12 (4) Beverages sold or served to pupils shall comply with all
13 applicable provisions of the Code of Federal Regulations and
14 California Code of Regulation that regulate the content of
15 beverages.

16 (c) Commencing July 1, 2008, food sold or served to pupils at
17 a middle school, except food sold or served as part of a federal
18 meal program, shall meet all of the following standards:

19 (1) The portion size of the food item shall not exceed 390
20 calories per serving.

21 (2) A snack food item may be sold or served if that item meets
22 at least one of the following:

23 (A) The item contains 200 calories or less per serving.

24 (B) No more than 35 percent of its calories are derived from
25 total fat, no more than 10 percent of its total calories are derived
26 from saturated fat, and no more than 35 percent of its total
27 weight is composed of sugar. This subparagraph does not apply
28 to the sale of nuts, nut butters, seeds, eggs, cheese, fruits, or
29 vegetables.

30 (3) Food of minimal nutritional value as defined in Section
31 220.2 of Title 7 of the Code of Federal Regulations shall not be
32 sold or served to pupils during the regularly scheduled
33 schoolday.

34 (4) Beverages sold or served to pupils shall comply with all
35 applicable provisions of the Code of Federal Regulations and
36 California Code of Regulation that regulate the content of
37 beverages.

38 (d) Commencing July 1, 2009, food sold or served to pupils at
39 a high school, except food sold or served as part of a federal
40 meal program, shall meet all of the following standards:

1 *(1) The portion size of the food item shall not exceed 435*
2 *calories per serving.*

3 *(2) A snack food item may be sold or served if that item meets*
4 *at least one of the following:*

5 *(A) The item contains 250 calories or less per serving.*

6 *(B) No more than 35 percent of its calories are derived from*
7 *total fat, no more than 10 percent of its total calories are derived*
8 *from saturated fat, and no more than 35 percent of its total*
9 *weight is composed of sugar. This subparagraph does not apply*
10 *to the sale of nuts, nut butters, seeds, eggs, cheese, fruits, or*
11 *vegetables.*

12 *(3) Food of minimal nutritional value as defined in Section*
13 *220.2 of Title 7 of the Code of Federal Regulations shall not be*
14 *sold or served to pupils during the regularly scheduled*
15 *schoolday.*

16 *(4) From one-half hour before the start of the schoolday until*
17 *one-half hour after the end of the schoolday, 66 percent of the*
18 *beverages served or sold to pupils at a high school shall be one*
19 *of the following:*

20 *(A) Drinking water, including water products that contain no*
21 *added nutritive sweeteners.*

22 *(B) Milk, including, but not limited to, flavored milk.*

23 *(C) Fruit and vegetable based drinks that are composed of at*
24 *least 50 percent fruit or vegetable juice and contain no added*
25 *nutritive sweeteners.*

26 *(D) Electrolyte replacement beverages that contain no more*
27 *than 42 grams of added sweetener per 20 ounce serving.*

28 *(E) Other beverages that contain no added nutritive*
29 *sweeteners.*

30 ~~*(e) An elementary*~~

31 *(e) A school may permit the sale of food items that do not*
32 *comply with ~~subdivision (a) or (b)~~ subdivisions (b) to (d),*
33 *inclusive, as part of a school fundraising event in any of the*
34 *following circumstances:*

35 *(1) The items are sold by pupils of the school and the sale of*
36 *those items takes place off of school premises.*

37 *(2) The items are sold by pupils of the school and the sale of*
38 *those items takes place at least one-half hour after the end of the*
39 *regularly scheduled schoolday.*

1 (3) *An organization may conduct no more than four sales of*
2 *food items per year, and these sales shall be held on the same*
3 *four days for all organizations.*

4 ~~(d)~~

5 (f) Notwithstanding Article 3 (commencing with Section
6 33050) of Chapter 1 of Part 20, compliance with this section may
7 not be waived.

8 ~~(e)~~

9 (g) (1) This section shall become operative only if moneys are
10 appropriated for each of the following purposes:

11 (A) Providing nutrition policy development grants pursuant to
12 subdivision (c) of Section 49433.

13 (B) Support and technical assistance to school districts
14 pursuant to Section 49433.5.

15 (C) Increasing meal reimbursements pursuant to Section
16 49430.5.

17 (2) The department shall file a written statement with the
18 Secretary of the Senate and the Chief Clerk of the Assembly
19 when funds have been appropriated to meet the conditions of
20 paragraph (1). The statement shall state the annual Budget Act or
21 other measure in which each appropriation was made.

22 (h) *It is the intent of the Legislature that the governing board*
23 *of a school district annually review its compliance with the*
24 *nutrition standards described in this section and Section*
25 *49431.5.*

26 SEC. 4. *If the Commission on State Mandates determines that*
27 *this act contains costs mandated by the state, reimbursement to*
28 *local agencies and school districts for those costs shall be made*
29 *pursuant to Part 7 (commencing with Section 17500) of Division*
30 *4 of Title 2 of the Government Code.*

31 ~~49431. (a) At each elementary school, and in those schools~~
32 ~~participating in the pilot program created pursuant to Section~~
33 ~~49433.7, the sale of all foods on school grounds shall be~~
34 ~~approved for compliance with the nutrition standards in this~~
35 ~~section by the person or persons responsible for implementing~~
36 ~~these provisions as designated by the school district.~~

37 ~~(b) (1) At each elementary school, food or beverages that~~
38 ~~meet any of the following criteria shall not be sold or served to~~
39 ~~pupils, other than as part of a school meal program:~~

~~(A) Food of minimal nutritional value as defined in Section 220.2 of Title 7 of the Code of Federal Regulations.~~

~~(B) Food containing artificial sweeteners.~~

~~(C) Snacks or desserts that exceed 150 calories per serving, unless that snack or dessert is served in the schoolday as part of a school meal program.~~

~~(2) At each elementary school, the only beverages that may be sold or served to pupils are unflavored water, fruit juice or vegetable juice containing at least 50 percent juice with no added sugar, nectar containing at least 35 percent nectar with no added sugar, and milk. Any beverage sold or served to pupils shall not exceed 150 calories per serving, and beverages, other than water, may not exceed 12 ounces in size. A beverage containing any artificial sweetener may not be sold or served to a pupil.~~

~~(c) (1) At each junior high or middle school, food that meet any of the following criteria shall not be sold or served to pupils, other than as part of a school meal program:~~

~~(A) Food of minimal nutritional value as defined in Section 220.2 of Title 7 of the Code of Federal Regulations.~~

~~(B) Snacks or desserts that exceed 200 calories per serving, unless that snack or dessert is served in the schoolday as part of a school meal program.~~

~~(C) Entree items that exceed 500 calories per serving.~~

~~(2) At each junior high or middle school, the only beverages that may be sold or served to pupils are unflavored water, fruit juice or vegetable juice containing at least 50 percent juice with no added sugar, nectar containing at least 35 percent nectar with no added sugar, beverages that contain no more than 25 grams of added sugar per 12 ounce serving, and milk. Any beverage sold or served to pupils shall not exceed 200 calories per serving, and beverages, other than water, may not exceed 12 ounces in size.~~

~~(d) (1) At each high school, food that meet any of the following criteria shall not be sold or served to pupils, other than as part of a school meal program:~~

~~(A) Snacks or desserts that exceed 275 calories per serving, unless that snack or dessert is served in the schoolday as part of a school meal program.~~

~~(B) Entree items that exceed 600 calories per serving.~~

~~(2) At each high school, beverages sold or served to pupils shall not exceed 275 calories per serving.~~

1 ~~(C) At each high school, 66 percent of beverages served or~~
2 ~~sold to pupils shall be unflavored water, fruit juice or vegetable~~
3 ~~juice containing at least 50 percent juice with no added sugar,~~
4 ~~nectar containing at least 35 percent nectar with no added sugar,~~
5 ~~beverages that contain no more than 25 grams of added sugar per~~
6 ~~12 ounce serving, and milk.~~

7 ~~SEC. 2. Section 49431.5 of the Education Code is repealed.~~

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